HIGHLAND
ENVIRONMENTAL
MANAGEMENT

May 3, 2002

David S. Hoffman
McMahon, DeGulis, Hoffman
& Lombardi LLP
The Caxton Building
Suite 650
812 Huron Road
Cleveland, OH 44115-1126

Dear Mr. Hoffman:

On behalf of NL Industries, I write to request that you cease contacting Terry Casey directly without my knowledge or involvement. Your recent call and correspondence to him, which purport to establish the existence and confirmation of an agreement with NL, are both unethical and unprofessional. You are well aware that I am counsel for NL in this matter. Communications between parties represented by counsel are to be conducted through counsel, not between an attorney and the opposing party, as you are doing. Your conduct has undermined our confidence in what we had hoped would be a cooperative effort.

You have attempted to convert long-ago discussions and considerations of various terms, both legal and monetary, into a final binding agreement through one-sided, self-serving letters and documents. We acknowledge that discussions have occurred and that the parties have formed a general consensus on how to proceed. However, this is a far cry from your tactic of attempting to create a formal binding agreement via Mr. Casey. Mr. Casey had no involvement in the February 2001 proposal you drafted which contains legal terms that he cannot pass on for NL.

No contract exists between our clients, nor will one exist, until all the material terms are agreed to by appropriate management personnel after review and consideration by counsel for the parties, and a written instrument memorializing the agreement is signed by both sides. Your various letters are meaningless and not productive in moving the unresolved issues forward to resolution.

We will not engage in a tit-for-tat of old issues and your recollection of past events. However, I dispute the characterization in your April 16 letter that you and I "negotiated" any agreement in this matter as reflected in the document you forwarded to me in February 2001. You did forward to me a draft agreement on February 14 (not February 12, as you indicated). NL has not accepted your

proposed agreement, nor made any counteroffer nor provided you with any suggested changes to your document. Further, we do not appreciate or welcome unilateral deadlines, as you set forth in your February 14 letter, and we are not bound by any purported failure to respond within your self-imposed deadline. This tactic is not productive to a resolution of the complex issues to be addressed and resolved.

Prior to your proposal, in November 2000, I forwarded to you a draft of an agreement that was acceptable to NL based on our discussions with you at that time. (I have enclosed a copy for your reference.) To the extent that your client desires to resolve this matter, NL expects that its November 2000 proposal will form the basis of any future agreement, not the document you forwarded to me on February 14, 2001 that you are attempting to "confirm" now in contacts to Terry Casey. If you have any comments on NL's draft agreement, you can send them to me. I remain open to considering them.

We acknowledge that the $275,000 figure in paragraph 1 of our November 2000 draft was latter revised to $300,000, as reflected in your February draft. We are still willing to accept this term. However, we did not agree to the suggested timing of the payments as reflected in your draft, nor did we commit to pay for costs, if any, in excess of $375,000 which you inserted into your draft. These items must still be negotiated among the parties if we are to reach a successful resolution of this matter. To the extent that other parties, such as the City and State, are committing funds, we will need them as signatories to an appropriate agreement. As it now stands, we have no contractual commitment from them to pay the amounts set forth in your draft.

In addition, you have inserted a "best efforts" limitation into your proposal. NL will not agree to a "best efforts" qualification to NOLTCO's responsibility to maintain the remedy. The site is solely within your client's ability to control. I suggest you look into purchasing insurance if you are not comfortable with complying with the requirement to maintain the remedy. NL will not accept a risk that belongs to your client.

In addition, NL will not accept any contractual obligations to NOLTCO that are enforceable between NL and EPA under the proposed ACO, such as your proposed paragraph 2 relating to NL's O&M payment to EPA. This provision has no relevance to the NL/NOLTCO proposed agreement, and NL will not accept unnecessary obligations enforceable by NOLTCO.

As to the assignment provision, NL cannot accept your suggestion that NOLTCO be relieved of its contractual obligations to NL if a permitted assignment is allowed. NL's provision must stand on this issue. NOLTCO cannot slip away from its commitment so easily after NL performs the remedy. You may resolve your concerns on this issue through a private agreement with a future permitted assignee.

On another note, as you know, we were advised by EPA last week that DOJ has raised an issue relating to the responsibility for certain off-site issues. We are attempting to work with EPA to understand and address their concerns. At this point, we have made no commitments to EPA and do not plan on accepting additional responsibilities that were not originally agreed to among the parties. We cannot execute the ACO until this issue is resolved. As in the past, we intend to diligently respond to EPA's concerns and are hopeful that we can resolve them to EPA's satisfaction.

I mention this as it is yet another in a long list of instances of delays and obstacles that were not created by NL, but which have caused NL to incur additional cost. Your lecture to NL on the difficulties encountered in this process is not helpful and not appreciated. NL has not been the source or cause of delay in this matter.

At your request we forwarded a draft proposal on O&M to you in November 2000. You responded in February 2001 with an unacceptable proposal altering key terms, and have done nothing on it since then except to attempt to create a binding commitment via unilateral contacts to Mr. Casey. Also, as we were discussing O&M in late 2000 and early 2001, you neglected to inform us of your prospective purchaser agreement with EPA, which contains many of the same terms sought by NL. We learned about this from counsel for another PRP. You should have been more forthright with us on this issue.

We were ready, willing and able to implement the original remedy selected in 1999 until your client's involvement created issues resulting in a delay that is now approaching three years. We have incurred substantial unanticipated additional costs that are the direct result of delays, obstacles and issues created by other parties, including your client and its allies.

In particular, your client waited over a year from the commencement of EPA/PRPs negotiations to take title to the property, despite repeated statements that title would be transferred in weeks. The trigger to implementation of any remedy at this site has been your client's decision to take title. The timing of this issue was solely within your client's control, not NL's. You repeatedly requested review of plans and documents that we were under no obligation to provide to you but did nonetheless in order to facilitate your client's decision. Terry Casey made trips to Cleveland meet with your client and others to address their concerns and review plans. None of this includes my time or expense in dealing with EPA, the other PRPs and your client on the many issues created by your client's decision obtain a property free of charge on which to locate its business, which, again, was not NL's decision. NL employees have also spent considerable time in dealing with us on these issues.

As a result of all this, the total cost to NL to implement this remedy exceeds the cost NL would have incurred to implement the original remedy. NL expects that a resolution between our clients will take this into account as we have requested. Given what has transpired during the past three years, it is not practical or realistic to expect NL to pretend that circumstances are today as they were at the outset of this matter and NL will not engage in further negotiations on that premise.

Finally, please note that you have not been sending copies of your letters to Mr. Casey to my correct address. I would appreciate it if you would update your records.

Please contact me if you are prepared to negotiate a resolution to the foregoing issues in a manner consistent with the concerns set forth in this letter. NL is prepared to resolve the outstanding issues immediately.

Very truly yours,

Marcus A. Martin

cc: Terry S. Casey

M D H L

McMAHON, DeGULIS, HOFFMANN & LOMBARDI

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FACSIMILE TRANSMISSION

DATE: May 21, 2002
TIME: 2:18 PM

TO: Susan Prout FAX NO. (312) 886-0747

FROM: David S. Hoffmann PAGES: 5 (w/cover)

RE: Letter from Marcus Martin

MESSAGE: Susan - Attached is the May 3 letter from M. Martin. I did send him a reply, but as I predicted, he has not responded and probably will not respond, at least within a time frame we can live with. My clients will wait to see how NL responds to the AOC, once it is delivered for execution. By the way, who is the Justice Department attorney who is working on the AOC? As I indicated to Martin in my response, we don't have the luxury of time on our side, so we expect that the AOC will be issued within the next week or so. Is that realistic?

Dave